IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

CRL.A.No. 24 of 2002()

CC.47/1998 of CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE

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APPELLANT: COMPLAINANT

P.PRIYA D/O.M.K.CHANDRAN
MALLIKA NIVAS, ANTHRI PARAMBA, P.O.KARIYATHANKAVU,
NANMINDA, KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: ACCUSED NO.2 TO 8 AND STATE

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1. UNICHIRA W/O. CHANDUKUTTY POONATH HOUSE,
P.O.ELETTIL VATTOLI (VIA) KODUVALLY,KOZHIKODE.

2. PUSHPA, D/O.CHANDUKUTTY.

3. VASANTHA, D/O. CHANDUKUTTY.

4. KESAVAN, S/O. CHANDUKUTTY.

5. CHEKKUNNI, S/O. CHANDUKUTTY.

6. SABEESH, S/O. CHANDUKUTTY.

7. DAMAYANTHI GOPALAN, NEDUTHEDI HOUSE,
VAZHIPOKKU,PALAZHI, KOZHIKODE.

8. SATE OF KERALA, REP.BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA.

BY P.P.SRI.THOMAS JOHN AMBOOKAN FOR R8 CC

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. Thankappan, J.

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Crl.A. No. 24 of 2002

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Dated this the 31st day of July, 2007

JUDGMENT

The appeal is filed by the complainant against the judgment in C.C.No.47/98 on the file of the Court of the Chief Judicial Magistrate, Kozhikode. The above complaint was filed by the appellant against respondents 1 to 7 and 1st accused under section 494, 109, 114 read with section 34 IPC on the allegation that during the subsistence of her marriage the 1st accused married another lady and the said marriage was conducted at the instigation and abetment of respondents 2 to 7. To prove the case against respondents 2 to 7 and the 1st accused the appellant herself was examined as PW1 and two others were examined as Pws.2 and 3. On the side of the prosecution Exts.P1 and P2 were marked. After closing the prosecution evidence respondents 1 to 7 and the 1st accused were questioned under section 313 Cr.P.C. They denied the allegation levelled against them. On considering the entire evidence the trial court found that the appellant failed to prove that the 1st accused had married another lady at Tali Temple

as mentioned in the complaint and there was no evidence to show that respondents 1 to 7 had in any way instigated and abetted the 1st accused for a second marriage with another lady. Hence, respondents 1 to 7 and the 1st accused were found not guilty and they were acquitted. Aggrieved by the above, this appeal has been filed for setting aside the impugned order and convicting respondents 2 to 7 and the 1st accused.

2. Heard.

3. The specific case set up by the appellant is that during the subsistence of her marriage the 1st accused married another lady and and the said marriage was conducted at the instigation and abetment of respondents 2 to 7. To prove the case, the petitioner had produced Exts.P1 and P2. Ext.P2 is the receipt book of the offerings maintained in the Tali Devaswom . Ext.P2 would show that some offerings were made to the Devaswom and there was nothing to show that that offerings were made in connection with the marriage as alleged in the complaint. The trial court found that there was nothing to show that Ext.P2 was connected with the disputed marriage of the 1st accused. It has come out in evidence that PW1 had no direct knowledge about the alleged marriage and her information was only that passed on by PW2. The trial court after considering the entire evidence found that the appellant had miserably failed to prove the alleged

complaint against respondents 2 to 7 and the 1st accused.

4. Considering the facts and circumstances of the case, this Court is of the view that the judgment of the trial court is on evidence and it requires no interference by this Court. Hence, the appeal is dismissed confirming the judgment of the trial court. The dismissal of the appeal will not stand in the way of the appellant to proceed against the 1st accused as per law.

K. Thankappan,
Judge.

Mn

K.Thankappan, J.

Crl.A.No. 24 of 2002

Judgement

31-7-2007